



STATE OF WEST VIRGINIA  
STATE TAX DEPARTMENT

CECIL H. UNDERWOOD  
GOVERNOR

JOSEPH M. PALMER  
COMMISSIONER

March 12, 1999

Rebecca A. Koses  
Contracting Officer  
Services Acquisition Center  
U.S. General Services Administration  
1941 Jefferson Davis Highway  
Arlington, VA 22202-4502

**Re:** Use of the revised United States Government credit card  
purchasing program -- GSA SmartPay program

Dear Ms. Koses:

This letter is in response to your correspondence of December 10, 1998 concerning the revised United States Government credit card purchasing program.

We understand new credit cards will be used for purchases by Federal Government employees. The credit cards will have unique prefixes and account numbers and wording that denotes that the card is for use by the Federal Government.

In your letter you ask that:

- (1) The West Virginia Tax Department confirm consumers sales and service tax exempt status for direct Government purchases using the credit card system, and
- (2) The West Virginia Tax Department review and rescind any requirement for the Federal Government to provide a tax exemption certificate when the new credit card is used.

Under section 11-15-9(a)(29) of the West Virginia Code, sales of tangible personal property or services to any person which this state is prohibited from taxing under the laws of the United States or under the constitution of this state are exempt from the West Virginia consumers sales and service tax. The law requires that an exemption certificate be issued in order to assert this particular exemption, but the West Virginia Tax Commissioner has the authority to designate exceptions to this requirement.

The material that accompanied your letter seems to indicate

that some of the new credit cards will have card number prefixes that will cause billings to be routed directly to the Federal Agency making the purchase. In other cases, certain prefixes will cause the billing to be routed to individual employees, and some card prefixes may cause billings to be routed either way, depending on the policy of the particular agency using the card.

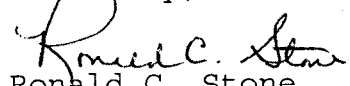
It has long been the policy of the West Virginia Tax Department that charges directly billed to a United States Government entity will typically be exempt from the West Virginia consumers sales and service tax. However, purchases by Federal employees who are personally billed for the charges, and then reimbursed by their employer are not exempt.

The Tax Department is willing to undertake issuance of regulations that will provide for "per se" exemptions for those credit card sales that can be readily and certainly identified through prefix numbers, etc. as directly billed to the Federal agency. Under the "per se" rule, it would not be necessary for the Federal agency to execute a West Virginia exemption certificate in order to assert the exemption.

However, sales that cannot be reliably identified at the point of sale through prefix numbers, etc. as directly billed, even though they may be in fact directly billed, may be subject to the exemption certificate requirement.

We hope this letter has been helpful to you. Please direct any questions to our Taxpayer Services Division at (304) 558-2051.

Sincerely,



Ronald C. Stone  
Assistant Tax Commissioner